

Notice of Non-Responsive Amendment

The timely submission under 37 CFR 1.129(a) filed on October 16, 2008 is not fully responsive to the prior Office action, because newly submitted claims 12 and 13 are directed to an invention that is independent or distinct from the invention originally elected claims for the following reasons:

New claims 12 and 13 and the original claims are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have different method steps. For example, claim 12 contains steps of mixing and burning gas, focusing light, and subtracting modeling data which are not found in the original claims. Original claim 1 contains steps of involving training groups which are not found in the new claims. Thus, the new claims and the original claims are distinct. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37

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CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Lin whose telephone number is (571) 272-2561. The examiner can normally be reached on 7:00-5:30pm, M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie A. Moran can be reached at (571) 272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Jerry Lin/

Examiner, Art Unit 1631

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